

FM AREA DIVERSION PROJECT

# Property Owner Information Packet for Cass County Commission

November 2<sup>nd</sup>, 2020

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PROPERTY OWNER: Orton Perhus

LAND AGENT: Jamie Wark with SRF

OIN: 747 751 5014 5015 5277



FM AREA  
**DIVERSION**  
PROJECT

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## Written Correspondence Timeline – Orton Perhus

OIN 747 751 5014 5015 5277	Sent	Received
Offer to Purchase	12/20/2019	12/21/2019
Formal Negotiations and Written Offer of Just Compensation	4/22/2020	4/23/2020
Request for Meeting	5/18/2020	5/20/2020
Notice of Intent to Take Possession of Right-of-Way	8/14/2020	8/17/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	9/18/2020	9/18/2020
Invitation to Attend Public Meeting	9/25/2020	9/28/2020
Commission Meeting Date	11/2/2020	

**CASS COUNTY COMMISSION**  
**CHECKLIST — COMPLIANCE WITH N.D. CENT. CODE § 61-16.1-09(2)**  
**FARGO-MOORHEAD AREA DIVERSION PROJECT**

A. Subject Property Information:

1. Landowner: Orton T. Perhus
2. Land Agent: Jamie Wark
3. Parcel Nos: 55-0000-09653-000, 55-0000-09659-000, 55-0000-09663-000,  
55-0000-09664-000, and 55-0000-09606-020
4. OIN Nos.: 747, 751, 5014, 5015, and 5277

B. Verification:

1. NDCC § 61-16.1-09(2)(b)(1)(a) requires the Cass County Joint Water Resource District (“CCJWRD”) to conduct 60 days of informal negotiations.
  - Did CCJWRD verify at least 60 days of informal negotiations with Landowner:  
\_\_\_\_\_
2. NDCC § 61-16.1-09(2)(b)(1)(b)[1] requires CCJWRD to send the landowner an appraisal and written offer for just compensation by certified mail or commercial delivery requiring a signed receipt or other evidence of constructive notice.
  - Did CCJWRD verify it sent Landowner an appraisal and written offer for just compensation: \_\_\_\_\_
  - Did CCJWRD verify service of the appraisal and offer by certified mail or commercial delivery, and that Landowner either signed for them or had constructive notice: \_\_\_\_\_
3. NDCC § 61-16.1-09(2)(b)(1)(b)[2] requires CCJWRD to send Landowner a written request for a meeting by certified mail or commercial delivery requiring a signed receipt [if the parties have not come to an agreement within 15 days of Landowner’s receipt or notice of CCJWRD’s offer].
  - Did CCJWRD verify it sent Landowner a written request for a meeting by certified mail or commercial delivery, and that Landowner either signed for the notice or had constructive notice: \_\_\_\_\_

4. NDCC § 61-16.1-09(2)(b)(1)(b)[3] requires CCJWRD to send Landowner a written notice of intent to take possession of the right of way and temporary easement, by certified mail or commercial delivery requiring a signed receipt [if the parties have not come to an agreement within 30 days of Landowner's receipt of notice of CCJWRD's invitation to a meeting].
  - Did CCJWRD verify it sent a written notice of intent to take possession of right away by certified mail or commercial delivery, and that Landowner either signed for the notice or had constructive notice: \_\_\_\_\_
5. NDCC § 61-16.1-09(2)(b)(2) requires all written communications to Landowner to include contact information for responding to CCJWRD and a description of the required negotiation timeline.
  - Did CCJWRD verify that all written communications to Landowner included contact information for responding to CCJWRD and a description of the required negotiation timeline: \_\_\_\_\_
6. NDCC § 61-16.1-09(2)(b)(3) prohibits a district from including or utilizing any reference to quick take eminent domain during negotiations.
  - Did CCJWRD verify it did not include or utilize any reference to quick take eminent domain during negotiations: \_\_\_\_\_

If the Commission answers in the affirmative to the above questions,

**RECOMMENDED MOTION:**

- I move to authorize the Cass County Joint Water Resource District to utilize quick take eminent domain under Section 61-16.1-09(2) of the North Dakota Century Code to take an easement for a right of way and temporary easement regarding OINs 747, 751, 5014, 5015 and 5277.

# FM Area Diversion Project Property Negotiation Summary

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October 26, 2020

Owner	Orton Perhus
Address	4951 168 <sup>th</sup> Ave SE, Kindred, ND 58051
Property Location	Southern Embankment – 1
Property Type	Agriculture
Identification Numbers- Fee Purchase	747 751 5014 5015 5277
Land Agent	Jamie Wark - SRF

## Property Need

The parcels are within the Southern Embankment – 1 are associated with the Project. The Diversion Authority is required to obtain a portion of the parcels for the Southern Embankment – 1. The Diversion Authority desires 27.86 acres of these properties for Land/Site Taking and 11.94 acres of TCE.

## Valuation and Negotiation Summary:

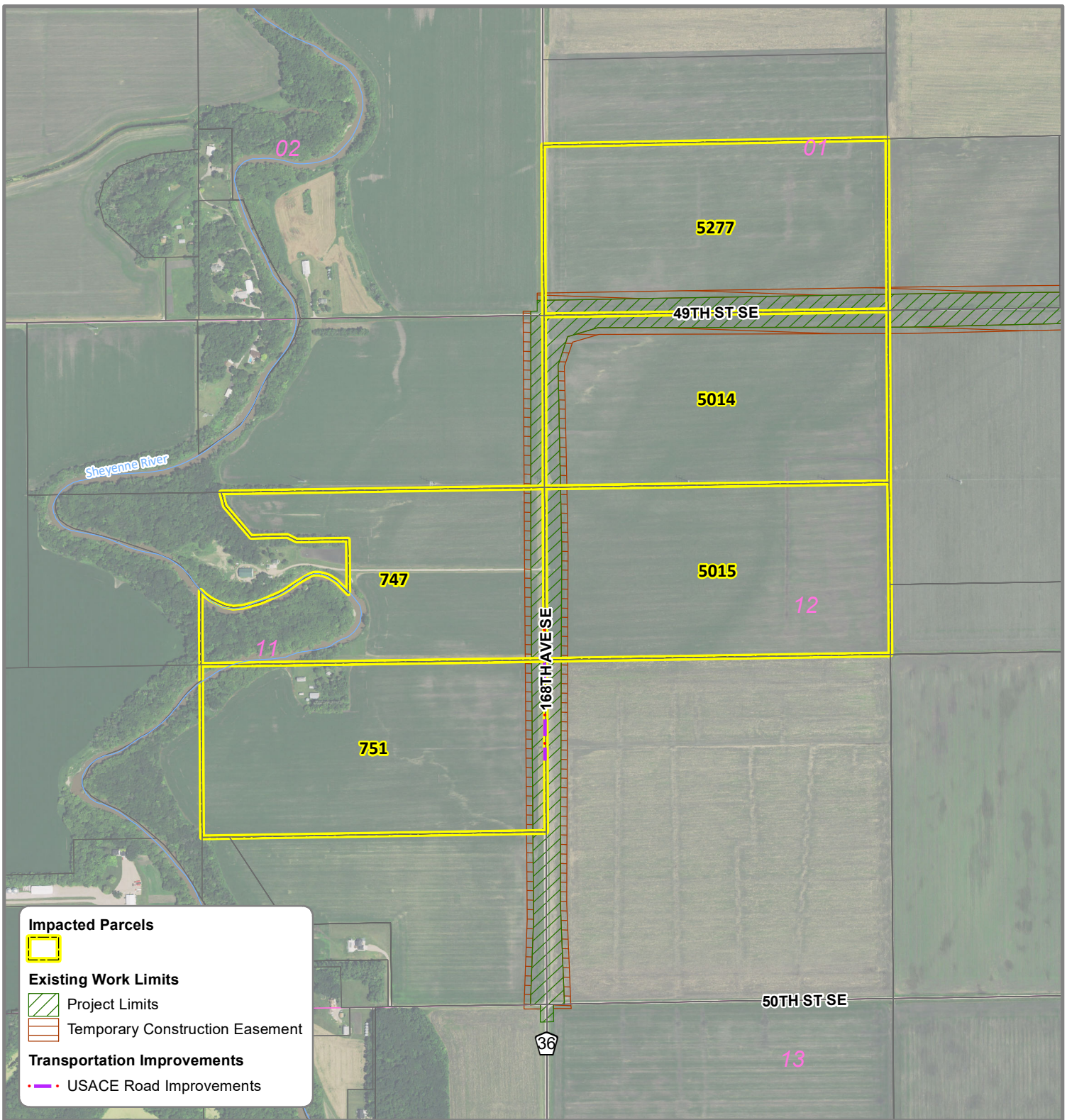
Appraisal Value / Date	\$164,000 (rd) – 11/27/19 <b>OINs 747, 751</b> 6.28 acres land/site taking at \$5,400/acre – \$33,912 3.06 acres TCE at \$200/5 years - \$3,060 <b>OINs 5014, 5015, 5277</b> 21.58 acres land/site taking at \$5,500/acre - \$118,690 8.88 acres TCE at \$200/5 years - \$8,880
Counteroffer	\$0 – no counteroffer provided as of 10/26/20
Purchase Agreement Value	\$0

## Negotiation Notes

- SRF Land agent, Jamie Wark, spoke to Orton Perhus who requested land agent work with Kelly Perhus
- Land agent has spoken to Kelly Perhus on seven separate occasions
- Land agent has exchanged text messages with Kelly Perhus at Kelly's request prior to calling
- Landowner has been meeting with neighboring parcel owners/representatives to discuss negotiations
- Kelly Perhus requested an increased offer – revised offer that represented 10% increase to appraised land/site taking amount was presented to owner and representative – offer was turned down

October 26, 2020

- Land agents Jamie Wark & Lisa Kilde met with Kelly Perhus and representatives for OIN 5278 & 5214 at Cass County Hwy Department to answer questions and provide information
- \$7k/acre offer has been presented to the property owner – no response as of 10/26/2020
- Representative of the owner has discussed a \$7,500/acre counteroffer with the land agent but is awaiting owner's approval
- Formal Offer letter sent 4/22/20
- Intent Letter mailed 8/14/20



**Impacted Parcels**

Impacted Parcels

**Existing Work Limits**

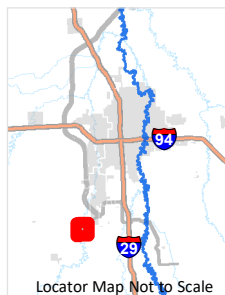
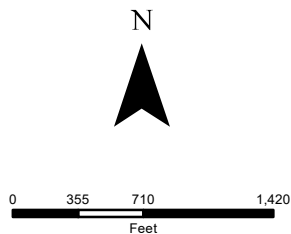
Project Limits

Temporary Construction Easement

**Transportation Improvements**

USACE Road Improvements

*Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. All parcel acreages and legal descriptions shown hereon are based on County GIS data. Final acreages and legal descriptions to be determined by boundary survey. Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Produced by: hrecords - AE2S, Inc. | C:\Data\Projects\GIS Projects\FM Area Diversion\Projects\Land Acquisition\Project Work Package\!Project Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105notdatadriven.mxd*



**Orton Perhus**

OINs: 747, 751, 5014, 5015, 5277

Parcel ID's: 55-0000-09653,  
55-0000-09659-000, 55-0000-09663-000,  
55-0000-09664-000, 55-0000-09606-020

Cass County, ND  
FM AREA DIVERSION  
Map Date: 5/19/2020







December 20, 2019

Orton T. Perhus  
4951 168th Ave SE  
Kindred, ND 58051

RE: **Offer to Purchase**

**Parcel ID:** OIN 747 751 5014 5015 5277

**Project Title:** Fargo Moorhead Diversion

**PID:** 55-0000-09653-000 (747); 55-0000-09659-000 (751); 55-0000-09663-000 (5014); 55-0000-09664-000 (5015); 55-0000-09606-020 (5277)

Dear Mr. Perhus,

The Cass County Joint Water Resource District (CCJWRD) and other partners are constructing a flood control improvement project in your area. The CCJWRD has hired the HMG Group to aid in the acquisition of right-of-way for the project. You are receiving this letter as the owner of property that must be acquired for the project. This letter conveys CCJWRD's offer to purchase all interests in the real property that are necessary for the project. The interests being purchased (the "Parcel") are listed on Exhibit A (Acquisition Summary) and shown on Exhibit B (Certificate of Survey), and the amount stated in this letter as the purchase amount is for all of those interests. If the Parcel includes interests that another person or entity may own (for example a mortgage lender or easement holder), the CCJWRD's offer is contingent on all parties with interest agreeing to the amount and allocation of the purchase funds.

To determine market value of the interest being acquired, CCJWRD retained the services of the independent property appraisal firm, Compass Land Consultants Inc. The appraiser has determined that the market value of the interests being purchased is **\$164,500.00**. The CCJWRD has used the market value set forth in the appraisal as the basis for determining Just Compensation for the property interests being acquired from you. A copy of the appraisal is attached to this letter and provided to you. If the purchase amount is based on any conditions or exceptions (such as terms of the transfer of possession or retention of any interest); they will be included in Exhibit A. A summary of the appraisal is provided on Exhibit A (Appraisal Summary).

**The Cass County Joint Water Resource District hereby offers to pay you \$164,500.00 as Just Compensation for the property interests it must acquire from you.**

Once we agree on the basic terms of an agreement for you to sell, and the CCJWRD to buy the property interests described in this letter, a Purchase Agreement will be drafted and presented to you for approval. The Purchase Agreement will contain all of the pertinent terms and conditions of this offer, as well as several standard legal, property acquisition terms. The Purchase Agreement will be between you and the CCJWRD.

Orton T. Perhus  
Offer to Purchase

OIN 747 751 5014 5015 5277

We appreciate your willingness to negotiate with the CCJWRD. We request counteroffers or acceptance of this offer within 30 days from the date of this letter. CCJWRD has flexibility regarding closing, rent and/or leaseback options. We also support 1031-1033 tax exchanges.

If you have any questions about the acquisition process, please contact me at 763-249-6785 or by email at khelvey@srfconsulting.com We are here to help you understand the process and to assist in negotiating a fair direct purchase of the Parcel, however, we do not represent you. We are willing to meet with you in person as well as set up a time to discuss questions on the phone.

Upon receipt of this letter, please sign below. Your signature indicates only that you have received this Offer to Purchase, and the following documents:

- Copy of the appraisal for Parcel ID OIN 747 751 5014 5015 5277 by Compass Land Consultants Inc.
- Exhibit A (Acquisition Summary), and Exhibit B (Certificate of Survey)

Your signature DOES NOT indicate your acceptance or rejection of the offered amount. Nor does it affect your right to continue to negotiate with the CCJWRD.

On behalf of CCJWRD, we wish to thank you for your cooperation and assistance, and we look forward to working with you toward a mutually satisfactory completion of the acquisition process.

Sincerely,



Ken Helvey  
Principal  
Direct # 763-249-6785  
khelvey@srfconsulting.com  
One North Second Street, Fargo, ND 58102

I acknowledge that on \_\_\_\_\_, 20 \_\_\_\_, I received this letter and all documents listed above.

\_\_\_\_\_  
Orton T. Perhus

*Required Notice: For your information the contact information for Cass County Joint Water Resource District (CCJWRD) is Carol Harbeke-Lewis, Secretary-Treasurer, at 701-298-2381. The property, that is the subject of this written communication, must be acquired by CCJWRD before September 2020.*

Enclosures: Appraisal Report, Exhibit A, Exhibit B

**EXHIBIT A**

**ACQUISITION SUMMARY  
Fargo Moorhead Diversion**

**Offer to Purchase**

**Parcel ID:** OIN 747 751 5014 5015 5277

**Project Title:** Fargo Moorhead Diversion

**PID:** 55-0000-09653-000 (747); 55-0000-09659-000 (751); 55-0000-09663-000 (5014); 55-0000-09664-000 (5015); 55-0000-09606-020 (5277)

Recorded Fee Owner: Orton T. Perhus

Property Legal Description:

SEE ATTACHED SURVEY

Description of Property Interests to be Acquired: Fee Simple and Temporary Easement

Noted and Waived Exceptions, Reservations or Encumbrances: None

\*Unless otherwise noted, any offer to purchase is contingent on the following:

1. Demonstration of marketable title,
2. Conveyance of all interests identified, unless waived in writing by the Cass County Joint Water Resource District,
3. Execution of a purchase agreement signed by the Cass County Joint Water Resource District, or its designee.

**APPRAISAL SUMMARY**

<b>Parcel Value</b>	<b>Area Size/ Description</b>	<b>Per Unit</b>	<b>Indicated Value</b>
<b>Land/Site Taking OIN 747 751</b>	6.28 Acres	\$ 5,400	\$ 33,912.00
<b>Temporary Easement OIN 747 751</b>	3.06 Acres	\$ 200 (x 5 years)	\$ 3,060.00
<b>Land/Site Taking OIN 5014 5015</b>	14.52 Acres	\$ 5,500	\$ 79,860.00
<b>Temporary Easement OIN 5014 5015</b>	5.59 Acres	\$ 200 (x 5 years)	\$ 5,590.00
<b>Land/Site Taking OIN 5277</b>	7.06 Acres	\$ 5,500	\$ 38,830.00
<b>Temporary Easement OIN 5277</b>	3.29 Acres	\$ 200 (x 5 years)	\$ 3,290.00
<b>TOTAL (rounded)</b>			<b>\$ 164,500.00</b>



[FAQs >](#)

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747  
Perhus

**Tracking Number:** 9505511429339354241285

[Remove X](#)

Your item was delivered in or at the mailbox at 12:39 pm on December 21, 2019 in KINDRED, ND 58051.

**Delivered**

December 21, 2019 at 12:39 pm  
Delivered, In/At Mailbox  
KINDRED, ND 58051

Feedback

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[Tracking History](#)

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[Product Information](#)

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**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

April 22, 2020

**Cass County  
Joint Water  
Resource  
District**

Orton T. Perhus  
4951 168th Avenue SE  
Kindred, ND 58051  
**Certified No. 7019 1640 0002 0398 8330**

Greetings:

Dan Jacobson  
Chairman  
West Fargo, North Dakota

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Formal Negotiations and Written Offer of Just Compensation  
OINs: 747, 751, 5014, 5015 and 5277  
Parcel Nos.: 55-0000-09653-000, 55-0000-09659-000, 55-0000-09663-000,  
55-0000-09664-000 and 55-0000-09606-020

Rodger Olson  
Manager  
Leonard, North Dakota

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

The Cass County Joint Water Resource District (the "District") is in the process of acquiring property interests necessary for the Fargo-Moorhead Area Diversion Project (the "Project"), and the District has been in discussions with you regarding right of way and temporary easement the District must acquire from you to accommodate the Project. The District directed me to provide you this letter as the District's formal offer to purchase right of way and a temporary easement from you. More specifically, to accommodate the Project, the District must acquire right of way and a temporary easement from you over property located in Cass County and identified as Parcel Identification Numbers 55-0000-09653-000, 55-0000-09659-000, 55-0000-09663-000, 55-0000-09664-000 and 55-0000-09606-020. The legal description of the property to be acquired is:

Right of Way:

OIN 747

That part of the Southeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the east quarter corner of said Section 11; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the northeast corner of said Southeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 104.47 feet; thence South 02 degrees 04 minutes 40 seconds East for a distance of 530.65 feet; thence South 02 degrees 23 minutes 30 seconds East for a distance of 793.80 feet to the south line of the Northeast Quarter of said Section 11;

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynd.gov](mailto:wrđ@casscountynd.gov)  
[casscountynd.gov](http://casscountynd.gov)

thence North 86 degrees 59 minutes 11 seconds East along the south line of the Northeast Quarter of said Section 11 for a distance of 103.50 feet to the point of beginning.

Said tract contains 3.19 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

OIN 751

That part of the Northeast Quarter of the Southeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the east quarter corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Southeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Southeast Quarter; thence South 87 degrees 00 minutes 09 seconds West along the south line of said Northeast Quarter of the Southeast Quarter for a distance of 99.63 feet; thence North 02 degrees 23 minutes 30 seconds West for a distance of 1324.33 feet to the north line of the Southeast Quarter of said Section 11; thence North 86 degrees 59 minutes 11 seconds East along the north line of the Southeast Quarter of said Section 11 for a distance of 103.50 feet to the point of beginning.

Said tract contains 3.09 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

OIN 5014

That part of the North Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the northwest corner of said Section 12; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the north line of said Northwest Quarter for a distance of 2639.46 feet to the northeast corner of said Northwest Quarter; thence South 02 degrees 25 minutes 24 seconds East along the east line of said Northwest Quarter for a distance of 132.67 feet; thence South 87 degrees 53 minutes 31 seconds West for a distance of 2224.14 feet; thence South 71 degrees 38 minutes 16 seconds West for a distance of 244.96 feet; thence South 16 degrees 11 minutes 22 seconds West for a distance of 230.37 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 936.84 feet to the south line of the North Half of said Northwest Quarter; thence South 87 degrees 08 minutes 40 seconds West along the south line of said North Half for a distance of 122.38 feet to the southwest corner of said North Half;

thence North 02 degrees 13 minutes 27 seconds West along the west line of said Northwest Quarter for a distance of 1324.41 feet to the point of beginning.

Said tract contains 10.68 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

OIN 5015

That part of the South Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the west quarter corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Northwest Quarter for a distance of 1324.41 feet to the northwest corner of the South Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the north line of said South Half for a distance of 122.38 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 461.58 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 862.88 feet to the south line of said Northwest Quarter; thence South 87 degrees 07 minutes 52 seconds West along the south line of said Northwest Quarter for a distance of 122.87 feet to the point of beginning.

Said tract contains 3.84 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

OIN 5277

That part of the Southwest Quarter of Section 1, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the southwest corner of said Section 1; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the south line of said Southwest Quarter for a distance of 2639.46 feet to the southeast corner of said Southwest Quarter; thence North 02 degrees 14 minutes 25 seconds West along the east line of said Southwest Quarter for a distance of 120.70 feet; thence South 86 degrees 58 minutes 25 seconds West for a distance of 2639.54 feet to the west line of said Southwest Quarter; thence South 02 degrees 13 minutes 43 seconds East along the west line of said Southwest Quarter for a distance of 112.22 feet to point of beginning.

Said tract contains 7.06 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Temporary Easement:  
OIN 747

That part of the Southeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the east quarter corner of said Section 11; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the northeast corner of said Southeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 104.47 feet to the point of beginning; thence South 02 degrees 04 minutes 40 seconds East for a distance of 530.65 feet; thence South 02 degrees 23 minutes 30 seconds East for a distance of 793.80 feet to the south line of the Northeast Quarter of said Section 11; thence South 86 degrees 59 minutes 11 seconds West along the south line of the Northeast Quarter of said Section 11 for a distance of 50.01 feet; thence North 02 degrees 23 minutes 30 seconds West for a distance of 794.48 feet; thence North 02 degrees 20 minutes 47 seconds West for a distance of 529.96 feet to the north line of said Southeast Quarter of the Northeast Quarter; thence North 87 degrees 00 minutes 41 seconds East along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 52.50 feet to the point of beginning.

Said tract contains 1.54 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

OIN 751

That part of the Northeast Quarter of the Southeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being a strip 50.00 feet wide, lying to the left of, as measured at a right angle to and parallel with a line described as follows:

Commencing at a found iron monument which designates the east quarter corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Southeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Southeast Quarter; thence South 87 degrees 00 minutes 09 seconds West along the south line of said Northeast Quarter of the Southeast Quarter for a distance of 99.63 feet to the point of beginning of said line; thence North 02 degrees 23 minutes 30 seconds West for a distance of 1324.33 feet to the north line of the Southeast Quarter of said Section 11, said line there terminates. The westerly sideline of said strip shall be lengthened or shortened as necessary to terminate on the north line of the Southeast Quarter of said Section 11 and on the south line of said Northeast Quarter of the Southeast Quarter.



Said tract contains 1.52 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

OIN 5014

That part of the North Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the northwest corner of said Section 12; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the north line of said Northwest Quarter for a distance of 2639.46 feet to the northeast corner of said Northwest Quarter; thence South 02 degrees 25 minutes 24 seconds East along the east line of said Northwest Quarter for a distance of 132.67 feet to the point of beginning; thence South 87 degrees 53 minutes 31 seconds West for a distance of 2224.14 feet; thence South 71 degrees 38 minutes 16 seconds West for a distance of 244.96 feet; thence South 16 degrees 11 minutes 22 seconds West for a distance of 230.37 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 936.84 feet to the south line of the North Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the south line of said North Half for a distance of 50.01 feet; thence North 03 degrees 07 minutes 49 seconds West for a distance of 928.57 feet; thence North 16 degrees 11 minutes 22 seconds East for a distance of 195.57 feet; thence North 71 degrees 38 minutes 16 seconds East for a distance of 211.54 feet; thence North 87 degrees 49 minutes 57 seconds East for a distance of 2217.26 feet to the east line of said Northwest Quarter; thence North 02 degrees 25 minutes 24 seconds West along the east line of said Northwest Quarter for a distance of 47.71 feet to the point of beginning.

Said tract contains 4.07 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

OIN 5015

That part of the South Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being a strip 50.00 feet wide, lying easterly of, as measured at a right angle to and parallel with a lined described as follows:

Commencing at a found iron monument which designates the west quarter corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Northwest Quarter for a distance of 1324.41 feet to the northwest corner of the South Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the north line of said South Half for a distance of 122.38 feet to the point of beginning of said line; thence South 03 degrees 07 minutes 49 seconds East for a distance of 461.58 feet;

thence South 01 degree 46 minutes 19 seconds East for a distance of 862.88 feet to the south line of said Northwest Quarter, said line there terminates. The easterly sideline of said strip shall be lengthened or shortened as necessary to terminate on the south line of said Northwest Quarter and on the north line of the South Half of said Northwest Quarter.

Said tract contains 1.52 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

OIN 5277

That part of the Southwest Quarter of Section 1, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the southwest corner of said Section 1; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the south line of said Southwest Quarter for a distance of 2639.46 feet to the southeast corner of said Southwest Quarter; thence North 02 degrees 14 minutes 25 seconds West along the east line of said Southwest Quarter for a distance of 120.70 feet to the point of beginning; thence South 86 degrees 58 minutes 25 seconds West for a distance of 2639.54 feet to the west line of said Southwest Quarter; thence North 02 degrees 13 minutes 43 seconds West along the west line of said Southwest Quarter for a distance of 57.25 feet; thence North 87 degrees 06 minutes 18 seconds East for a distance of 2639.45 feet to the east line of said Southwest Quarter; thence South 02 degrees 14 minutes 25 seconds East along the east line of said Southwest Quarter for a distance of 51.20 feet to the point of beginning.

Said tract contains 3.29 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Enclosed is an appraisal regarding the value of the right of way and temporary easement the District must acquire from you, as determined by a licensed North Dakota appraiser. As you can see from the appraisal, the appraiser indicated the value of the right of way the District must acquire from you is \$152,602.00, and the temporary easement is \$11,940.00, for a total purchase price of \$164,542.00, rounded to \$164,500.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$164,500.00 as just compensation to purchase right of way and a temporary easement from you for the Project. If you are willing to accept the District's offer, please sign the enclosed *Purchase Agreement* and return it to the District in the enclosed self-addressed, stamped envelope.

Orton T. Perhus  
April 22, 2020  
Page 7

You are encouraged to maintain contact with the land agent assigned to your property. **Ken Helvey** of SRF Consulting Group, Inc. can be reached at **(763) 249-6785** or **khelvey@srfconsulting.com**. Ken is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way and a temporary easement from you for the Project.

For your information, North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way and temporary easement. If you do not accept the District's offer of just compensation and do not return a signed Purchase Agreement within fifteen (15) days, the District will send you a written request to discuss the Project and required right of way and temporary easement to be acquired at an upcoming Cass County Joint Water Resource District meeting. Ultimately, the District must conclude all negotiations and complete all acquisitions by Fall 2020.

We look forward to reaching a mutually acceptable agreement to resolve this matter. Thank you for your consideration.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis  
Secretary-Treasurer  
1201 Main Avenue West  
West Fargo, ND 58078  
(701) 298-2381  
Lewisc@casscountynd.gov

Enclosures

cc: Ken Helvey, Land Agent  
Eric Dodds, Program Manager, AE2S  
Chris McShane, Ohnstad Twichell, P.C.  
Chad Peterson, Cass County Commission Chair  
Robert Wilson, Cass County Administrator  
Birch Burdick, Cass County State's Attorney  
Joel Paulsen, Executive Director, Diversion Authority

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ORTON T PERHUS  
 4951 169TH AVENUE SE  
 KINDRED ND 58051



9590 9402 3806 8032 1546 04

2. Article Number (Transfer from service label)

7019 1640 0002 0398 8330

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X RF - Covid 19

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

4-23-20

D. Is delivery address different from item 1?

If YES, enter delivery address below:  Yes  No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
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- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt



**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

May 18, 2020

**Cass County  
Joint Water  
Resource  
District**

Orton T. Perhus  
4951 168th Avenue SE  
Kindred, ND 58051  
**Certified No. 7019 1640 0002 0398 8552**

Greetings:

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Rodger Olson  
Manager  
Leonard, North Dakota

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Request for Meeting  
OINs: 747, 751, 5014, 5015, 5277  
Parcel Nos.: 55-0000-09653-000, 55-0000-09659-000  
55-0000-09663-000, 55-0000-09664-000, 55-0000-09606-020

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). The District previously provided you a letter dated April 22, 2020; a copy of the District's appraisal for the right of way needed from you; and a Purchase Agreement as the District's offer of just compensation to purchase the right of way and temporary easement from you. The District's letter specifically described the right of way and temporary easement the District must acquire from you for the Project. We have not received a signed Purchase Agreement from you, and we have not otherwise arrived at mutually acceptable terms regarding the District's purchase of right of way and temporary easement from you to accommodate the Project.

The District requests your attendance at a meeting to discuss the District's offer to purchase right of way and temporary easement from you. The District is meeting at 8:00 a.m. on May 28, 2020, and June 11, 2020. Over the next several months, District meetings will be conducted via conference call and District board members will not be attending in person. The requirements that a meeting room be available to the public and that a speakerphone or monitor be provided at a physical location under NDCC § 44-04-19 have been suspended indefinitely pursuant to Governor Burgum's Executive Order 2020-16; therefore, we request your attendance by telephone.

The District hopes you will attend one of the above-mentioned meetings to discuss the Project and the right of way and temporary easement the District must acquire from you to accommodate the Project. If you would like to attend one of the meetings by phone, please contact me or Melissa Maertens at (701) 298-2381 at least 24 hours in advance of the meeting so the necessary arrangements can be made and the call-in information provided to you.

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynđ.gov](mailto:wrđ@casscountynđ.gov)  
[casscountynđ.gov](http://casscountynđ.gov)

Orton T. Perhus  
OINs 747, 751, 5014, 5015, 5277  
May 18, 2020  
Page 2

Please continue to maintain contact and negotiate with the land agent assigned to your property. **Ken Helvey** of SRF Consulting Group, Inc. is your point of contact for getting answers to any questions you have about the Project. Ken can be reached at **(763) 249-6785** or [khelvey@srfconsulting.com](mailto:khelvey@srfconsulting.com).

North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way and temporary easement. The District must conclude all negotiations and complete the acquisition of right of way and temporary easement necessary for construction of Project components on your property by Fall of 2020.

The District hopes you will attend one of the upcoming District meetings to discuss the Project and the required right of way and temporary easement. The District looks forward to meeting with you.


Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis  
Secretary-Treasurer  
1201 Main Avenue West  
West Fargo, ND 58078  
(701) 298-2381  
[lewisc@casscountynd.gov](mailto:lewisc@casscountynd.gov)

cc: Ken Helvey, Land Agent  
Eric Dodds, Program Manager, AE2S  
Chris McShane, Ohnstad Twichell, P.C.  
Chad Peterson, Chair, Cass County Commission  
Robert Wilson, Cass County Administrator  
Birch Burdick, Cass County State's Attorney  
Joel Paulsen, Executive Director, Diversion Authority

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  <input checked="" type="checkbox"/> <i>RF (Covid 19)</i>      <input checked="" type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p> <p>B. Received by (<i>Printed Name</i>)      C. Date of Delivery  <span style="float: right;">5-20-20</span></p>																
<p>1. Article Addressed to:  ORTON T PERHUS  4951 16TH AVE SE  KINDRED ND 58051</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>																
 9590 9402 3806 8032 1542 91	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®																
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<input type="checkbox"/> Insured Mail																	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)																	
<p>2. Article Number (<i>Transfer from service label</i>)     7019 1640 0002 0398 8552</p>																	
PS Form 3811, July 2015 PSN 7530-02-000-9053	Domestic Return Receipt																



VIA UPS DELIVERY

Cass County  
Joint Water  
Resource  
District

August 14, 2020

Orton T. Perhus  
4951 168th Avenue SE  
Kindred, ND 58051

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Rodger Olson  
Manager  
Leonard, North Dakota

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY  
OINs: 747, 751, 5014, 5015, 5277  
Parcel Nos.: 55-0000-09653-000, 55-0000-09659-000  
55-0000-09663-000, 55-0000-09664-000,  
55-0000-09606-020

Dear Orton:

On July 21, 2020, the enclosed letter regarding property you own in Cass County, North Dakota was sent to you. The return receipt for the July 21, 2020, letter was not received by our office.

As the enclosed letter indicates, you are encouraged to maintain contact with the land agent assigned to your property. Jamie Wark of SRF Consulting Group, Inc. can be reached at (701) 893-7435 or [jwark@srfconsulting.com](mailto:jwark@srfconsulting.com).

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT

Carol Harbeke Lewis  
Secretary-Treasurer  
1201 Main Avenue West  
West Fargo, ND 58078  
(701) 298-2381  
[Lewisc@casscountynnd.gov](mailto:Lewisc@casscountynnd.gov)

Carol Harbeke Lewis  
Secretary-Treasurer  
1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrld@casscountynnd.gov](mailto:wrld@casscountynnd.gov)  
[casscountynnd.gov](http://casscountynnd.gov)

Enclosures





Hello, your package has been delivered.

Delivery Date: Monday, 08/17/2020

Delivery Time: 10:17 AM

Left At: RESIDENTIAL

Signed by: SIG ON FILE

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### CASS WATER RESOURCE DISTRICT

Tracking Number: [1ZY93E24A802347216](#)

Ship To: ORTON T PERHUS  
4951 168TH AVENUE SE  
KINDRED, ND 58051  
US

Number of Packages: 1

UPS Service: UPS Ground

Package Weight: 1.0 LBS

 [Download the UPS mobile app](#)

# Proof of Delivery



Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

**Tracking Number**

1ZY93E24A802347216

**Weight**

1.00 LBS

**Service**

UPS Ground

**Shipped / Billed On**

08/14/2020

**Additional Information**

Adult Signature Required

**Delivered On**

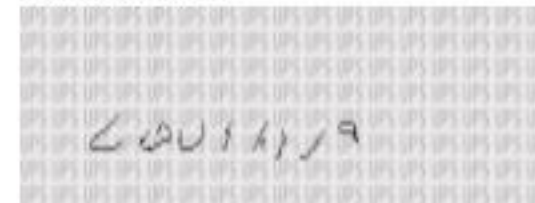
08/17/2020 10:17 A.M.

**Received By**

SIG ON FILE

**Delivered To**

4951 168TH AVE SE  
KINDRED, ND, 58051, US



**Left At**

Residential

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

Sincerely,

UPS

Tracking results provided by UPS: 08/20/2020 9:53 A.M. EST

[Print this page](#)



SENT VIA EMAIL [wilsonro@casscountynd.gov](mailto:wilsonro@casscountynd.gov)

September 18, 2020

Cass County  
Joint Water  
Resource  
District

Robert Wilson  
Cass County Administrator  
Cass County Commission  
211 9th Street S  
Fargo, ND 58103

Greetings:

Dan Jacobson  
Chairman  
West Fargo, North Dakota

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Request for Approval to Take Possession of Necessary Right of Way and  
Temporary Easement  
OINs: 747, 751, 5014, 5015, 5277  
Parcel Nos.: 55-0000-09653-000, 55-0000-09659-000, 55-0000-09663-000,  
55-0000-09664-000, 59-0000-09606-020

Rodger Olson  
Manager  
Leonard, North Dakota

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of acquiring the right of way necessary for the Fargo Moorhead Diversion Area Project ("Project"). I previously copied you on the following three letters whereby the District sought to negotiate the acquisition of the right of way and temporary easement from Orton T. Perhus (the "Landowner"):

- Letter dated April 22, 2020, enclosing the District's appraisal for the acquisition of the right of way and temporary easement from the Landowner and a proposed Purchase Agreement;
- Letter dated May 18, 2020, inviting the Landowner to meet with the District for purposes of negotiating compensation for the right of way and temporary easement to be acquired; and
- Letters dated July 21, 2020, and August 14, 2020, notifying the Landowner the District planned to submit a request to the Cass County Commission seeking immediate possession of the right of way and temporary easement necessary for the Project.

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynd.gov](mailto:wrđ@casscountynd.gov)  
[casscountynd.gov](http://casscountynd.gov)

The District has conducted months of negotiations with the Landowner to arrive at a mutually acceptable agreement for the District's purchase. More specifically, the District engaged in both informal and formal negotiations with the Landowner, as required under N.D. Cent. Code § 61-16.1-09(2)(b), in an effort to reach agreement regarding fair compensation to the Landowner for the acquisition of the necessary right of way and temporary easement in, on, over, across, and through certain property owned by the Landowner in Cass County, North Dakota. The legal description of the necessary right of way and temporary easement is as follows:

Right of Way Easement:

OIN 747

That part of the Southeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the east quarter corner of said Section 11; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the northeast corner of said Southeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 104.47 feet; thence South 02 degrees 04 minutes 40 seconds East for a distance of 530.65 feet; thence South 02 degrees 23 minutes 30 seconds East for a distance of 793.80 feet

to the south line of the Northeast Quarter of said Section 11; thence North 86 degrees 59 minutes 11 seconds East along the south line of the Northeast Quarter of said Section 11 for a distance of 103.50 feet to the point of beginning.

Said tract contains 3.19 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 751

That part of the Northeast Quarter of the Southeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the east quarter corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Southeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Southeast Quarter; thence South 87 degrees 00 minutes 09 seconds West along the south line of said Northeast Quarter of the Southeast Quarter for a distance of 99.63 feet; thence North 02 degrees 23 minutes 30 seconds West for a distance of 1324.33 feet to the north line of the Southeast Quarter of said Section 11; thence North 86 degrees 59 minutes 11 seconds East along the north line of the Southeast Quarter of said Section 11 for a distance of 103.50 feet to the point of beginning.

Said tract contains 3.09 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5014

That part of the North Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the northwest corner of said Section 12; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the north line of said Northwest Quarter for a distance of 2639.46 feet to the northeast corner of said Northwest Quarter; thence South 02 degrees 25 minutes 24 seconds East along the east line of said Northwest Quarter for a distance of 132.67 feet; thence South 87 degrees 53 minutes 31 seconds West for a distance of 2224.14 feet; thence South 71 degrees 38 minutes 16 seconds West for a distance of 244.96 feet; thence South 16 degrees 11 minutes 22 seconds West for a distance of 230.37 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 936.84 feet to the south line of the North Half of said Northwest Quarter; thence South 87 degrees 08 minutes 40 seconds West along the south line of said North Half for a distance of 122.38 feet to the southwest corner of said North Half; thence North 02 degrees 13 minutes 27 seconds West along the west line of said Northwest Quarter for a distance of 1324.41 feet to the point of beginning.

Said tract contains 10.68 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5015

That part of the South Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the west quarter corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Northwest Quarter for a distance of 1324.41 feet to the northwest corner of the South Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the north line of said South Half for a distance of 122.38 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 461.58 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 862.88 feet to the south line of said Northwest Quarter; thence South 87 degrees 07 minutes 52 seconds West along the south line of said Northwest Quarter for a distance of 122.87 feet to the point of beginning.

Said tract contains 3.84 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5277

That part of the Southwest Quarter of Section 1, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the southwest corner of said Section 1; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the south line of said Southwest Quarter for a distance of 2639.46 feet to the southeast corner of said Southwest Quarter; thence North 02 degrees 14 minutes 25 seconds West along the east line of said Southwest Quarter for a distance of 120.70 feet; thence South 86 degrees 58 minutes 25 seconds West for a distance of 2639.54 feet to the west line of said Southwest Quarter; thence South 02 degrees 13 minutes 43 seconds East along the west line of said Southwest Quarter for a distance of 112.22 feet to point of beginning.

Said tract contains 7.06 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Temporary Easement:

OIN 747

That part of the Southeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the east quarter corner of said Section 11; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the northeast corner of said Southeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 104.47 feet to the point of beginning; thence South 02 degrees 04 minutes 40 seconds East for a distance of 530.65 feet; thence South 02 degrees 23 minutes 30 seconds East for a distance of 793.80 feet to the south line of the Northeast Quarter of said Section 11; thence South 86 degrees 59 minutes 11 seconds West along the south line of the Northeast Quarter of said Section 11 for a distance of 50.01 feet; thence North 02 degrees 23 minutes 30 seconds West for a distance of 794.48 feet; thence North 02 degrees 20 minutes 47 seconds West for a distance of 529.96 feet to the north line of said Southeast Quarter of the Northeast Quarter; thence North 87 degrees 00 minutes 41 seconds East along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 52.50 feet to the point of beginning.

Said tract contains 1.54 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 751

That part of the Northeast Quarter of the Southeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being a strip 50.00 feet wide, lying to the left of, as measured at a right angle to and parallel with a line described as follows:

Commencing at a found iron monument which designates the east quarter corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Southeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Southeast Quarter; thence South 87 degrees 00 minutes 09 seconds West along the south line of said Northeast Quarter of the Southeast Quarter for a distance of 99.63 feet to the point of beginning of said line; thence North 02 degrees 23 minutes 30 seconds West for a distance of 1324.33 feet to the north line of the Southeast Quarter of said Section 11, said line there terminates. The westerly sideline of said strip shall be lengthened or shortened as necessary to terminate on the north line of the Southeast Quarter of said Section 11 and on the south line of said Northeast Quarter of the Southeast Quarter.

Said tract contains 1.52 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5014

That part of the North Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the northwest corner of said Section 12; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the north line of said Northwest Quarter for a distance of 2639.46 feet to the northeast corner of said Northwest Quarter; thence South 02 degrees 25 minutes 24 seconds East along the east line of said Northwest Quarter for a distance of 132.67 feet to the point of beginning; thence South 87 degrees 53 minutes 31 seconds West for a distance of 2224.14 feet; thence South 71 degrees 38 minutes 16 seconds West for a distance of 244.96 feet; thence South 16 degrees 11 minutes 22 seconds West for a distance of 230.37 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 936.84 feet to the south line of the North Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the south line of said North Half for a distance of 50.01 feet; thence North 03 degrees 07 minutes 49 seconds West for a distance of 928.57 feet; thence North 16 degrees 11 minutes 22 seconds East for a distance of 195.57 feet; thence North 71 degrees 38 minutes 16 seconds East for a distance

of 211.54 feet; thence North 87 degrees 49 minutes 57 seconds East for a distance of 2217.26 feet to the east line of said Northwest Quarter; thence North 02 degrees 25 minutes 24 seconds West along the east line of said Northwest Quarter for a distance of 47.71 feet to the point of beginning.

Said tract contains 4.07 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5015

That part of the South Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being a strip 50.00 feet wide, lying easterly of, as measured at a right angle to and parallel with a lined described as follows:

Commencing at a found iron monument which designates the west quarter corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Northwest Quarter for a distance of 1324.41 feet to the northwest corner of the South Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the north line of said South Half for a distance of 122.38 feet to the point of beginning of said line; thence South 03 degrees 07 minutes 49 seconds East for a distance of 461.58 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 862.88 feet to the south line of said Northwest Quarter, said line there terminates. The easterly sideline of said strip shall be lengthened or shortened as necessary to terminate on the south line of said Northwest Quarter and on the north line of the South Half of said Northwest Quarter.

Said tract contains 1.52 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5277

That part of the Southwest Quarter of Section 1, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the southwest corner of said Section 1; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the south line of said Southwest Quarter for a distance of 2639.46 feet to the southeast corner of said Southwest Quarter; thence North 02 degrees 14 minutes 25 seconds West along the east line of said Southwest Quarter for a distance of 120.70 feet to the point of beginning; thence South 86 degrees 58 minutes 25 seconds West for a distance of 2639.54 feet to the west



line of said Southwest Quarter; thence North 02 degrees 13 minutes 43 seconds West along the west line of said Southwest Quarter for a distance of 57.25 feet; thence North 87 degrees 06 minutes 18 seconds East for a distance of 2639.45 feet to the east line of said Southwest Quarter; thence South 02 degrees 14 minutes 25 seconds East along the east line of said Southwest Quarter for a distance of 51.20 feet to the point of beginning.

Said tract contains 3.29 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

As you may recall, in 2017, the North Dakota Legislature modified the process for water resource districts to acquire immediate possession of right of way necessary for water projects; the new process is set forth in Section 61-16.1-09(2)(b). The District has followed all of the necessary steps under the statute, but the parties have not reached a mutually acceptable agreement. Under the new acquisition process enumerated in Section 61-16.1-09(2)(b)(3), the District must next seek the County Commission's approval to proceed further, and to ultimately utilize quick take eminent domain to take possession of the right of way and temporary easement above to commence the Project.

More specifically, Section 61-16.1-09(2)(b)(3) requires the County Commission to hold a public meeting and to provide the Landowner no less than thirty days' notice of the meeting. The District will also attend the meeting, along with a representative of the land firm which was the Landowner's main point of contact throughout the negotiation process. Prior to the public meeting, the land firm representative and the District will verify neither the District nor any of its agents referenced or threatened quick take eminent domain during the informal and formal negotiation process.

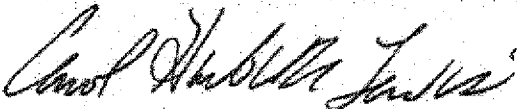
While the District takes all landowners' rights very seriously, the District also has an obligation, as a member of the Metro Flood Diversion Authority, to acquire the right of way and temporary easement necessary for the Project, and construction of the Project will not be possible without acquiring the right of way and temporary easement identified above. As the District will explain and verify for the Commission in more detail through this process, the District provided the Landowner with the District's appraisal as the starting point for negotiations, then attempted to negotiate further with the Landowner over the course of several months. This step is not one the District takes lightly; quick take eminent domain is a serious undertaking, and the District has negotiated in good-faith with the Landowner to avoid this process. Despite the District's efforts to be fair, friendly, and flexible in both the informal and formal negotiations with the Landowner, unfortunately, the parties have not reached a mutually acceptable agreement for the acquisition of the right of way and temporary easement.

Robert Wilson  
September 18, 2020  
Page 8

The District respectfully requests that the Cass County Commission proceed with the public meeting process under Section 61-16.1-09(2)(b)(3) regarding the Landowner and the right of way and temporary easement identified in this letter. Further, the District respectfully requests that the Cass County Commission ultimately approve the District's use of quick take eminent domain to take possession of the right of way and temporary easement identified above by quick take eminent domain so the Project may proceed. For your information, while the County conducts the process under Section 61-16.1-09(2)(b)(3), the District still hopes the parties can arrive at a mutually-acceptable agreement.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis  
Secretary-Treasurer  
1201 Main Avenue West  
West Fargo, ND 58078  
(701) 298-2381  
[lewisc@casscountynynd.gov](mailto:lewisc@casscountynynd.gov)

cc: Jamie Wark, Land Agent  
Chris McShane, Ohnstad Twichell, P.C.  
Birch Burdick, Cass County State's Attorney  
Joel Paulsen, Executive Director, Diversion Authority  
Eric Dodds, AE2S Program Manager  
Sharon Oliver, Ohnstad Twichell, P.C.  
Heather Worden, Administrative Assistant, Cass County Commission



September 25, 2020

**VIA UPS – DELIVERY CONFIRMATION**

**Board of County Commissioners**

Orton T. Perhus  
4951 168<sup>th</sup> Avenue SE  
Kindred, ND 58051

Chad M. Peterson  
Fargo, North Dakota

Rick Steen  
Fargo, North Dakota

Ken Pawluk  
Fargo, North Dakota

Duane Breitling  
West Fargo, North Dakota

Mary Scherling  
Stanley Township, North Dakota

Re: Cass County Commission  
Fargo-Moorhead Area Diversion Project  
Invitation to Attend Public Meeting  
OINs: 747, 751, 5014, 5015, and 5277  
Parcel Nos.: 55-0000-09653-000, 55-0000-09659-000, 55-0000-09663-000, 55-0000-09664-000, and 55-0000-09606-020  
UPS Tracking No. 1Z F51 82Y 25 9154 9267

**Greetings:**

As you know, the METRO FLOOD DIVERSION AUTHORITY (the “Authority”) is proceeding with the Fargo Moorhead Area Diversion Project (“Project”); the Cass County Commission (the “Commission”) is a member of the Authority. The Cass County Joint Water Resource District (the “District”) is also a member of the Authority, and the Authority previously directed the District to obtain the North Dakota right of way and temporary easements necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding the right of way and temporary easement the District must acquire from you for the Project. The District copied the Commission on the following letters the District sent to you regarding the District’s negotiations with you:

- Letter dated April 22, 2020, enclosing the District’s appraisal for the acquisition of the right of way and temporary easement from you, along with a proposed Purchase Agreement;
- Letter dated May 18, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way and temporary easement to be acquired; and
- Letters dated July 21, 2020 and August 14, 2020, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way and temporary easement necessary for the Project.

Heather Worden  
Commission Assistant

P.O. Box 2806  
211 9th Street South  
Fargo, North Dakota 58108  
701-241-5609  
www.casscountynd.gov

The District informed the Commission that you and the District have not reached a mutually-acceptable agreement, and have not signed a purchase agreement, regarding the right of way and temporary easement the District must purchase from you to accommodate the Project. With that in mind, the District recently requested approval from the Commission to utilize quick take eminent domain to take possession of the right of way and temporary easement the District must acquire from you. The legal description of the necessary right of way and temporary easement is as follows:

Right of Way Easement:

OIN 747

That part of the Southeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the east quarter corner of said Section 11; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the northeast corner of said Southeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 104.47 feet; thence South 02 degrees 04 minutes 40 seconds East for a distance of 530.65 feet; thence South 02 degrees 23 minutes 30 seconds East for a distance of 793.80 feet

to the south line of the Northeast Quarter of said Section 11; thence North 86 degrees 59 minutes 11 seconds East along the south line of the Northeast Quarter of said Section 11 for a distance of 103.50 feet to the point of beginning.

Said tract contains 3.19 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 751

That part of the Northeast Quarter of the Southeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the east quarter corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Southeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Southeast Quarter; thence South 87 degrees 00 minutes 09 seconds West along the south line of said Northeast Quarter

of the Southeast Quarter for a distance of 99.63 feet; thence North 02 degrees 23 minutes 30 seconds West for a distance of 1324.33 feet to the north line of the Southeast Quarter of said Section 11; thence North 86 degrees 59 minutes 11 seconds East along the north line of the Southeast Quarter of said Section 11 for a distance of 103.50 feet to the point of beginning.

Said tract contains 3.09 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5014

That part of the North Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the northwest corner of said Section 12; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the north line of said Northwest Quarter for a distance of 2639.46 feet to the northeast corner of said Northwest Quarter; thence South 02 degrees 25 minutes 24 seconds East along the east line of said Northwest Quarter for a distance of 132.67 feet; thence South 87 degrees 53 minutes 31 seconds West for a distance of 2224.14 feet; thence South 71 degrees 38 minutes 16 seconds West for a distance of 244.96 feet; thence South 16 degrees 11 minutes 22 seconds West for a distance of 230.37 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 936.84 feet to the south line of the North Half of said Northwest Quarter; thence South 87 degrees 08 minutes 40 seconds West along the south line of said North Half for a distance of 122.38 feet to the southwest corner of said North Half; thence North 02 degrees 13 minutes 27 seconds West along the west line of said Northwest Quarter for a distance of 1324.41 feet to the point of beginning.

Said tract contains 10.68 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5015

That part of the South Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the west quarter corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Northwest Quarter for a distance of 1324.41 feet to the northwest corner of the South Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the north line of said South Half for a distance of 122.38 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 461.58 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 862.88 feet to the south line of said Northwest Quarter; thence South 87 degrees 07 minutes 52 seconds West along the south line of said Northwest Quarter for a distance of 122.87 feet to the point of beginning.

Said tract contains 3.84 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5277

That part of the Southwest Quarter of Section 1, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the southwest corner of said Section 1; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the south line of said Southwest Quarter for a distance of 2639.46 feet to the southeast corner of said Southwest Quarter; thence North 02 degrees 14 minutes 25 seconds West along the east line of said Southwest Quarter for a distance of 120.70 feet; thence South 86 degrees 58 minutes 25 seconds West for a distance of 2639.54 feet to the west line of said Southwest Quarter; thence South 02 degrees 13 minutes 43 seconds East along the west line of said Southwest Quarter for a distance of 112.22 feet to point of beginning.

Said tract contains 7.06 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

Temporary Easement:

OIN 747

That part of the Southeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the east quarter corner of said Section 11; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the northeast corner of said Southeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 104.47 feet to the point of beginning; thence South 02 degrees 04 minutes 40 seconds East for a distance of 530.65 feet; thence South 02 degrees 23 minutes 30 seconds East for a distance of 793.80 feet to the south line of the Northeast Quarter of said Section 11; thence South 86 degrees 59 minutes 11 seconds West along the south line of the Northeast Quarter of said Section 11 for a distance of 50.01 feet; thence North 02 degrees 23 minutes 30 seconds West for a distance of 794.48 feet; thence North 02 degrees 20 minutes 47 seconds West for a distance of 529.96 feet to the north line of said Southeast Quarter of the Northeast Quarter; thence North 87 degrees 00 minutes 41 seconds East along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 52.50 feet to the point of beginning.

Said tract contains 1.54 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 751

That part of the Northeast Quarter of the Southeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being a strip 50.00 feet wide, lying to the left of, as measured at a right angle to and parallel with a line described as follows:

Commencing at a found iron monument which designates the east quarter corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Southeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Southeast Quarter; thence South 87 degrees 00 minutes 09 seconds West along the south line of said Northeast Quarter of the Southeast Quarter for a distance of 99.63 feet to the point of beginning of said line; thence North 02 degrees 23 minutes 30 seconds West for a distance of 1324.33 feet to the north line of the Southeast Quarter of said Section 11, said line there terminates. The westerly sideline of said strip shall be lengthened or shortened as necessary to terminate on the north line of the Southeast Quarter of said Section 11 and on the south line of said Northeast Quarter of the Southeast Quarter.

Said tract contains 1.52 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5014

That part of the North Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the northwest corner of said Section 12; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the north line of said Northwest Quarter for a distance of 2639.46 feet to the northeast corner of said Northwest Quarter; thence South 02 degrees 25 minutes 24 seconds East along the east line of said Northwest Quarter for a distance of 132.67 feet to the point of beginning; thence South 87 degrees 53 minutes 31 seconds West for a distance of 2224.14 feet; thence South 71 degrees 38 minutes 16 seconds West for a distance of 244.96 feet; thence South 16 degrees 11 minutes 22 seconds West for a distance of 230.37 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 936.84 feet to the south line of the North Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the south line of said North Half for a distance of 50.01 feet; thence North 03 degrees 07 minutes 49 seconds West for a distance of 928.57 feet; thence North 16 degrees 11 minutes 22 seconds East for a distance of 195.57 feet; thence North 71 degrees 38 minutes 16 seconds East for a distance of 211.54 feet; thence North 87 degrees 49 minutes 57 seconds East for a distance of 2217.26 feet to the east line of said Northwest Quarter; thence North 02 degrees 25 minutes 24 seconds West along the east line of said Northwest Quarter for a distance of 47.71 feet to the point of beginning.

Said tract contains 4.07 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5015

That part of the South Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being a strip 50.00 feet wide, lying easterly of, as measured at a right angle to and parallel with a lined described as follows:



Commencing at a found iron monument which designates the west quarter corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Northwest Quarter for a distance of 1324.41 feet to the northwest corner of the South Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the north line of said South Half for a distance of 122.38 feet to the point of beginning of said line; thence South 03 degrees 07 minutes 49 seconds East for a distance of 461.58 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 862.88 feet to the south line of said Northwest Quarter, said line there terminates. The easterly sideline of said strip shall be lengthened or shortened as necessary to terminate on the south line of said Northwest Quarter and on the north line of the South Half of said Northwest Quarter.

Said tract contains 1.52 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5277

That part of the Southwest Quarter of Section 1, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the southwest corner of said Section 1; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the south line of said Southwest Quarter for a distance of 2639.46 feet to the southeast corner of said Southwest Quarter; thence North 02 degrees 14 minutes 25 seconds West along the east line of said Southwest Quarter for a distance of 120.70 feet to the point of beginning; thence South 86 degrees 58 minutes 25 seconds West for a distance of 2639.54 feet to the west line of said Southwest Quarter; thence North 02 degrees 13 minutes 43 seconds West along the west line of said Southwest Quarter for a distance of 57.25 feet; thence North 87 degrees 06 minutes 18 seconds East for a distance of 2639.45 feet to the east line of said Southwest Quarter; thence South 02 degrees 14 minutes 25 seconds East along the east line of said Southwest Quarter for a distance of 51.20 feet to the point of beginning.

Said tract contains 3.29 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

The Commission invites you to attend the Commission's meeting on November 2, 2020 at 3:30 p.m. The District will also participate in the meeting, along with a representative of the land firm which was your primary point of contact throughout the negotiation

Perhus  
September 25, 2020  
Page 8

process. At the meeting, the Commission will ask the District to verify the District's compliance with Section 61-16.1-09(2) of the North Dakota Century Code. The Commission will ultimately vote on whether to approve the District's use of quick take eminent domain to take a right of way and temporary easement over your property.

If you wish to participate in the Commission's November 2, 2020 public meeting via conference call or Microsoft Teams, please contact Heather Worden at (701) 241-5609 or [wordenh@casscountynd.gov](mailto:wordenh@casscountynd.gov) as soon as possible so Ms. Worden can assist you with the necessary arrangements.

This Notice does not preclude you from continuing to work with the District regarding the right of way and temporary easement necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **Jamie Wark** and to continue discussions about the Project. **Jamie Wark** of **SRF Consulting Group, Inc.** is your point of contact regarding the Project. You can reach **Jamie Wark** at **(701) 893-7435** or **[jwark@srfconsulting.com](mailto:jwark@srfconsulting.com)**.

Finally, North Dakota law requires the Commission to provide you with a description of the District's timeline regarding your right of way and temporary easement. The District must complete the acquisition of right of way necessary for construction of Project components on your property by Fall of 2020.

Sincerely,

CASS COUNTY COMMISSION



Robert Wilson, Cass County Administrator  
Cass County Commission  
211 Ninth Street South  
Fargo, ND 58103  
(701) 241-5609

cc: Jamie Wark, Land Agent  
Birch Burdick, Cass County State's Attorney  
Joel Paulsen, Executive Director, Diversion Authority  
Chris McShane, Ohnstad Twichell, P.C.  
Eric Dodds, AE2S Program Manager  
Sharon Oliver, Ohnstad Twichell, P.C.  
Heather Worden, Administrative Assistant, Cass County Commission

Orton Perhus

# Proof of Delivery

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

**Tracking Number**

1ZF5182Y2591549267

**Weight**

1.00 LBS

**Service**

UPS Next Day Air®

**Shipped / Billed On**

09/24/2020

**Delivered On**

09/28/2020 11:09 A.M.

**Delivered To**

4951 168TH AVE SE  
KINDRED, ND, 58051, US

**Left At**

Mailbox

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

Sincerely,

UPS

Tracking results provided by UPS: 09/28/2020 4:52 P.M. EST



AND

OIN 751

That part of the Northeast Quarter of the Southeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the east quarter corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Southeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Southeast Quarter; thence South 87 degrees 00 minutes 09 seconds West along the south line of said Northeast Quarter of the Southeast Quarter for a distance of 99.63 feet; thence North 02 degrees 23 minutes 30 seconds West for a distance of 1324.33 feet to the north line of the Southeast Quarter of said Section 11; thence North 86 degrees 59 minutes 11 seconds East along the north line of the Southeast Quarter of said Section 11 for a distance of 103.50 feet to the point of beginning.

Said tract contains 3.09 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5014

That part of the North Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the northwest corner of said Section 12; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the north line of said Northwest Quarter for a distance of 2639.46 feet to the northeast corner of said Northwest Quarter; thence South 02 degrees 25 minutes 24 seconds East along the east line of said Northwest Quarter for a distance of 132.67 feet; thence South 87 degrees 53 minutes 31 seconds West for a distance of 2224.14 feet; thence South 71 degrees 38 minutes 16 seconds West for a distance of 244.96 feet; thence South 16 degrees 11 minutes 22 seconds West for a distance of 230.37 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 936.84 feet to the south line of the North Half of said Northwest Quarter; thence South 87 degrees 08 minutes 40 seconds West along the south line of said North Half for a distance of 122.38 feet to the southwest corner of said North Half; thence North 02 degrees 13 minutes 27 seconds West along the west line of said Northwest Quarter for a distance of 1324.41 feet to the point of beginning.

Said tract contains 10.68 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5015

That part of the South Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the west quarter corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Northwest Quarter for a distance of 1324.41 feet to the northwest corner of the South Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the north line of said South Half for a distance of 122.38 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 461.58 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 862.88 feet to the south line of said Northwest Quarter; thence South 87 degrees 07 minutes 52 seconds West along the south line of said Northwest Quarter for a distance of 122.87 feet to the point of beginning.

Said tract contains 3.84 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5277

That part of the Southwest Quarter of Section 1, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the southwest corner of said Section 1; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the south line of said Southwest Quarter for a distance of 2639.46 feet to the southeast corner of said Southwest Quarter; thence North 02 degrees 14 minutes 25 seconds West along the east line of said Southwest Quarter for a distance of 120.70 feet; thence South 86 degrees 58 minutes 25 seconds West for a distance of 2639.54 feet to the west line of said Southwest Quarter; thence South 02 degrees 13 minutes 43 seconds East along the west line of said Southwest Quarter for a distance of 112.22 feet to point of beginning.

Said tract contains 7.06 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

Temporary Easement

OIN 747

That part of the Southeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the east quarter corner of said Section 11; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the northeast corner of said Southeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 104.47 feet to the point of beginning; thence South 02 degrees 04 minutes 40 seconds East for a distance of 530.65 feet; thence South 02 degrees 23 minutes 30 seconds East for a distance of 793.80 feet to the south line of the Northeast Quarter of said Section 11; thence South 86 degrees 59 minutes 11 seconds West along the south line of the Northeast Quarter of said Section 11 for a distance of 50.01 feet; thence North 02 degrees 23 minutes 30 seconds West for a distance of 794.48 feet; thence North 02 degrees 20 minutes 47 seconds West for a distance of 529.96 feet to the north line of said Southeast Quarter of the Northeast Quarter; thence North 87 degrees 00 minutes 41 seconds East along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 52.50 feet to the point of beginning.

Said tract contains 1.54 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 751

That part of the Northeast Quarter of the Southeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being a strip 50.00 feet wide, lying to the left of, as measured at a right angle to and parallel with a line described as follows:

Commencing at a found iron monument which designates the east quarter corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Southeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Southeast Quarter; thence South 87 degrees 00 minutes 09 seconds West along the south line of said Northeast Quarter of the Southeast Quarter for a distance of 99.63 feet to the point of beginning of said line; thence North 02 degrees 23 minutes 30 seconds West for a distance of 1324.33 feet to the north line of the Southeast Quarter of said Section 11, said line there terminates. The westerly sideline of said strip shall be lengthened or shortened as necessary to terminate on the north line of the Southeast Quarter of said Section 11 and on the south line of said Northeast Quarter of the Southeast Quarter.

Said tract contains 1.52 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5014

That part of the North Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the northwest corner of said Section 12; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the north line of said Northwest Quarter for a distance of 2639.46 feet to the northeast corner of said Northwest Quarter; thence South 02 degrees 25 minutes 24 seconds East along the east line of said Northwest Quarter for a distance of 132.67 feet to the point of beginning; thence South 87 degrees 53 minutes 31 seconds West for a distance of 2224.14 feet; thence South 71 degrees 38 minutes 16 seconds West for a distance of 244.96 feet; thence South 16 degrees 11 minutes 22 seconds West for a distance of 230.37 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 936.84 feet to the south line of the North Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the south line of said North Half for a distance of 50.01 feet; thence North 03 degrees 07 minutes 49 seconds West for a distance of 928.57 feet; thence North 16 degrees 11 minutes 22 seconds East for a distance of 195.57 feet; thence North 71 degrees 38 minutes 16 seconds East for a distance of 211.54 feet; thence North 87 degrees 49 minutes 57 seconds East for a distance of 2217.26 feet to the east line of said Northwest Quarter; thence North 02 degrees 25 minutes 24 seconds West along the east line of said Northwest Quarter for a distance of 47.71 feet to the point of beginning.

Said tract contains 4.07 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5015

That part of the South Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being a strip 50.00 feet wide, lying easterly of, as measured at a right angle to and parallel with a lined described as follows:

Commencing at a found iron monument which designates the west quarter corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Northwest Quarter for a distance of 1324.41 feet to the northwest corner of the South Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the north line of said



South Half for a distance of 122.38 feet to the point of beginning of said line; thence South 03 degrees 07 minutes 49 seconds East for a distance of 461.58 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 862.88 feet to the south line of said Northwest Quarter, said line there terminates. The easterly sideline of said strip shall be lengthened or shortened as necessary to terminate on the south line of said Northwest Quarter and on the north line of the South Half of said Northwest Quarter.

Said tract contains 1.52 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5277

That part of the Southwest Quarter of Section 1, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the southwest corner of said Section 1; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the south line of said Southwest Quarter for a distance of 2639.46 feet to the southeast corner of said Southwest Quarter; thence North 02 degrees 14 minutes 25 seconds West along the east line of said Southwest Quarter for a distance of 120.70 feet to the point of beginning; thence South 86 degrees 58 minutes 25 seconds West for a distance of 2639.54 feet to the west line of said Southwest Quarter; thence North 02 degrees 13 minutes 43 seconds West along the west line of said Southwest Quarter for a distance of 57.25 feet; thence North 87 degrees 06 minutes 18 seconds East for a distance of 2639.45 feet to the east line of said Southwest Quarter; thence South 02 degrees 14 minutes 25 seconds East along the east line of said Southwest Quarter for a distance of 51.20 feet to the point of beginning.

Said tract contains 3.29 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

The property described above is the "Necessary Property."

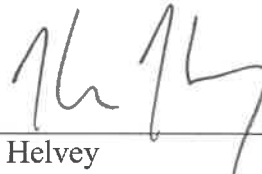
[¶5] Affiant is familiar with the records maintained by SRF Consulting Group, Inc. with respect to the Necessary Property and has reviewed all such records prior to executing this affidavit.

[¶6] SRF Consulting Group, Inc. has attempted to negotiate with Landowner to acquire the Necessary Property. Attached as **Exhibit A** is a log of all contacts SRF Consulting Group, Inc. has had with Landowner.

[¶7] The District has instructed SRF Consulting Group, Inc. to refrain from referencing, mentioning, or threatening quick take eminent domain during negotiations since August 1, 2017.

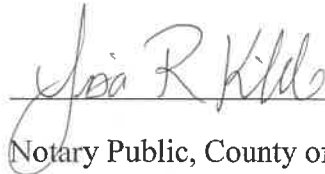
[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

Dated this 20 day of October, 2020.



Ken Helvey  
SRF Consulting Group, Inc.

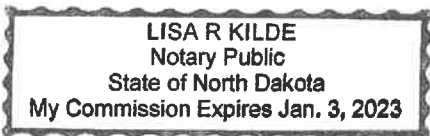
Subscribed to and sworn to before me this 20 day of October, 2020.



Notary Public, County of Cass

State of North Dakota

My Commission Expires: \_\_\_\_\_



(SEAL)

## OIN 747 751 5014 5015 5277 - Perhus Contact Attempts

<b>Date</b>	<b>Note</b>
12/21/2019	Appraisal and offer letter sent/received
3/24/2019	Spoke to Orton, asked to work with Kelly Perhus
3/30/2020	Tried to contact Kelly, non-working number
4/6/2020	Tried to contact Kelly, non-working number
4/8/2020	mailed a letter to Orton stating land agent could not reach Kelly Perhus at telephone numbers provided
4/22/2020	Formal offer letter sent
4/24/2020	Kelly called land agent, will follow up with him to identify counteroffer, Kelly asked land agent to notify him via text prior to calling in future
4/28/2020	Summary letter sent to Orton Perhus
4/29/2020	Summary letter received (verified by USPS tracking)
4/30/2020	Called Kelly back to get a counteroffer, no counteroffer provided
5/4/2020	Texted Kelly Perhus, no response
5/6/2020	Called Kelly - he requested a revised offer
5/8/2020	Jamie sent revised offer to Orton. Offer reflected 10% increase to the appraised value
5/9/2020	revised offer received (verified by USPS tracking)
5/18/2020	CCJWRD Invite sent
5/20/2020	CCJWRD Invite received
5/26/2020	Jamie called Kelly regarding a revised offer, Kelly stated he did not receive the offer, asked to send again
6/2/2020	Offer letter re-sent
6/3/2020	Offer letter received (verified by USPS tracking)
6/11/2020	Land agent called - no answer
6/16/2020	Land agent called - no answer
7/8/2020	Land agent called - no answer
7/22/2020	Land agent called - no answer
7/29/2020	Contact letter mailed to Orton Perhus and Kelly Perhus
8/3/2020	Spoke to Kelly. Asked if he would be willing to meet with Kruse & Thoen to discuss offers. Kelly said yes.
8/7/2020	Called Kelly. No Answer. Followed with a text to inform him of the August 20 meeting at Cass County Highway Department with Thoen & Kruse
8/14/2020	Notice of Intent letter mailed
8/20/2020	Met with Kelly and two other neighboring landowner representatives to discuss counteroffer and answer questions. Questions related to drainage and values other property owners had received.
9/16/2020	Reached out to Kelly via text to inform him I would be calling later in the day. Called but no answer.
9/24/2020	Reached out to Kelly via text to inform him I would be calling later in the day. Called but no answer.
9/25/2020	CCC Meeting invite sent
10/7/2020	Reached out to Kelly via text to ask if he was available to discuss revised offer (\$7k/acre). No response.
10/8/2020	Received a text from Kelly stating he would be willing to talk if offer was for \$7,500/acre

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**AFFIDAVIT OF DAN JACOBSON FOR CASS COUNTY COMMISSION**

STATE OF NORTH DAKOTA            )  
  ) ss.  
COUNTY OF CASS                    )

[¶1] I, Dan Jacobson, do hereby state on oath:

[¶2] I serve as Chair of the Cass County Joint Water Resource District (“the District”).

[¶3] As a member of the Metro Flood Diversion Authority, the District is responsible for acquiring the right of way in North Dakota necessary to accommodate the Fargo-Moorhead Area Diversion Project (the “Project”).

[¶4] The District has concluded acquisition of a Right of Way and Temporary Easement in and to real property owned by Orton T. Perhus (“Landowner”) is necessary for the Project.

[¶5] State and federal funds have been made available for the Project.

[¶6] The real property owned by Landowner where a Right of Way and Temporary Easement must be acquired by the District for the Project is located in Cass County, North Dakota, more fully described as follows:

Right of Way  
OIN 747

That part of the Southeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the east quarter corner of said Section 11; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the northeast corner of said Southeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 104.47 feet; thence South 02 degrees 04 minutes 40 seconds East for a distance of 530.65 feet; thence South 02 degrees 23 minutes 30 seconds East for a distance of 793.80 feet to the south line of the Northeast Quarter of said Section 11; thence North 86 degrees 59 minutes 11 seconds East along the south line of the Northeast Quarter of said Section 11 for a distance of 103.50 feet to the point of beginning.

Said tract contains 3.19 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 751

That part of the Northeast Quarter of the Southeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the east quarter corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Southeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Southeast Quarter; thence South 87 degrees 00 minutes 09 seconds West along the south line of said Northeast Quarter of the Southeast Quarter for a distance of 99.63 feet; thence North 02 degrees 23 minutes 30 seconds West for a distance of 1324.33 feet to the north line of the Southeast Quarter of said Section 11; thence North 86 degrees 59 minutes 11 seconds East along the north line of the Southeast Quarter of said Section 11 for a distance of 103.50 feet to the point of beginning.

Said tract contains 3.09 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5014

That part of the North Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the northwest corner of said Section 12; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the north line of said Northwest Quarter for a distance of 2639.46 feet to the northeast corner of said Northwest Quarter; thence South 02 degrees 25 minutes 24 seconds East along the east line of said Northwest Quarter for a distance of 132.67 feet; thence South 87 degrees 53 minutes 31 seconds West for a distance of 2224.14 feet; thence South 71 degrees 38 minutes 16 seconds West for a distance of 244.96 feet; thence South 16 degrees 11 minutes 22 seconds West for a distance of 230.37 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 936.84 feet to the south line of the North Half of said Northwest Quarter; thence South 87 degrees 08 minutes 40 seconds West along the south line of said North Half for a distance of 122.38 feet to the southwest corner of said North Half; thence North 02 degrees 13 minutes 27 seconds West along the west line of said Northwest Quarter for a distance of 1324.41 feet to the point of beginning.

Said tract contains 10.68 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5015

That part of the South Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the west quarter corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Northwest Quarter for a distance of 1324.41 feet to the northwest corner of the South Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the north line of said South Half for a distance of 122.38 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 461.58 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 862.88 feet to the south line of said Northwest Quarter; thence South 87 degrees 07 minutes 52 seconds West along the south line of said Northwest Quarter for a distance of 122.87 feet to the point of beginning.

Said tract contains 3.84 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5277

That part of the Southwest Quarter of Section 1, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the southwest corner of said Section 1; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the south line of said Southwest Quarter for a distance of 2639.46 feet to the southeast corner of said Southwest Quarter; thence North 02 degrees 14 minutes 25 seconds West along the east line of said Southwest Quarter for a distance of 120.70 feet; thence South 86 degrees 58 minutes 25 seconds West for a distance of 2639.54 feet to the west line of said Southwest Quarter; thence South 02 degrees 13 minutes 43 seconds East along the west line of said Southwest Quarter for a distance of 112.22 feet to point of beginning.

Said tract contains 7.06 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

Temporary Easement

OIN 747

That part of the Southeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the east quarter corner of said Section 11; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the northeast corner of said Southeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 104.47 feet to the point of beginning; thence South 02 degrees 04 minutes 40 seconds East for a distance of 530.65 feet; thence South 02 degrees 23 minutes 30 seconds East for a distance of 793.80 feet to the south line of the Northeast Quarter of said Section 11; thence South 86 degrees 59 minutes 11 seconds West along the south line of the Northeast Quarter of said Section 11 for a distance of 50.01 feet; thence North 02 degrees 23 minutes 30 seconds West for a distance of 794.48 feet; thence North 02 degrees 20 minutes 47 seconds West for a distance of 529.96 feet to the north line of said Southeast Quarter of the Northeast Quarter; thence North 87 degrees 00 minutes 41 seconds East along the north line of said Southeast Quarter of the Northeast Quarter for a distance of 52.50 feet to the point of beginning.

Said tract contains 1.54 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 751

That part of the Northeast Quarter of the Southeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being a strip 50.00 feet wide, lying to the left of, as measured at a right angle to and parallel with a line described as follows:

Commencing at a found iron monument which designates the east quarter corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Southeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Southeast Quarter; thence South 87 degrees 00 minutes 09 seconds West along the south line of said Northeast Quarter of the Southeast Quarter for a distance of 99.63 feet to the point of beginning of said line; thence North 02 degrees 23 minutes 30 seconds West for a distance of 1324.33 feet to the north line of the Southeast Quarter of said Section 11, said line there terminates. The westerly sideline of said strip shall be lengthened or shortened as necessary to terminate on the north line of the Southeast

Quarter of said Section 11 and on the south line of said Northeast Quarter of the Southeast Quarter.

Said tract contains 1.52 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5014

That part of the North Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the northwest corner of said Section 12; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the north line of said Northwest Quarter for a distance of 2639.46 feet to the northeast corner of said Northwest Quarter; thence South 02 degrees 25 minutes 24 seconds East along the east line of said Northwest Quarter for a distance of 132.67 feet to the point of beginning; thence South 87 degrees 53 minutes 31 seconds West for a distance of 2224.14 feet; thence South 71 degrees 38 minutes 16 seconds West for a distance of 244.96 feet; thence South 16 degrees 11 minutes 22 seconds West for a distance of 230.37 feet; thence South 03 degrees 07 minutes 49 seconds East for a distance of 936.84 feet to the south line of the North Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the south line of said North Half for a distance of 50.01 feet; thence North 03 degrees 07 minutes 49 seconds West for a distance of 928.57 feet; thence North 16 degrees 11 minutes 22 seconds East for a distance of 195.57 feet; thence North 71 degrees 38 minutes 16 seconds East for a distance of 211.54 feet; thence North 87 degrees 49 minutes 57 seconds East for a distance of 2217.26 feet to the east line of said Northwest Quarter; thence North 02 degrees 25 minutes 24 seconds West along the east line of said Northwest Quarter for a distance of 47.71 feet to the point of beginning.

Said tract contains 4.07 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5015

That part of the South Half of the Northwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being a strip 50.00 feet wide, lying easterly of, as measured at a right angle to and parallel with a lined described as follows:

Commencing at a found iron monument which designates the west quarter corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an



assumed bearing along the west line of said Northwest Quarter for a distance of 1324.41 feet to the northwest corner of the South Half of said Northwest Quarter; thence North 87 degrees 08 minutes 40 seconds East along the north line of said South Half for a distance of 122.38 feet to the point of beginning of said line; thence South 03 degrees 07 minutes 49 seconds East for a distance of 461.58 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 862.88 feet to the south line of said Northwest Quarter, said line there terminates. The easterly sideline of said strip shall be lengthened or shortened as necessary to terminate on the south line of said Northwest Quarter and on the north line of the South Half of said Northwest Quarter.

Said tract contains 1.52 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

OIN 5277

That part of the Southwest Quarter of Section 1, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the southwest corner of said Section 1; thence North 87 degrees 09 minutes 27 seconds East on an assumed bearing along the south line of said Southwest Quarter for a distance of 2639.46 feet to the southeast corner of said Southwest Quarter; thence North 02 degrees 14 minutes 25 seconds West along the east line of said Southwest Quarter for a distance of 120.70 feet to the point of beginning; thence South 86 degrees 58 minutes 25 seconds West for a distance of 2639.54 feet to the west line of said Southwest Quarter; thence North 02 degrees 13 minutes 43 seconds West along the west line of said Southwest Quarter for a distance of 57.25 feet; thence North 87 degrees 06 minutes 18 seconds East for a distance of 2639.45 feet to the east line of said Southwest Quarter; thence South 02 degrees 14 minutes 25 seconds East along the east line of said Southwest Quarter for a distance of 51.20 feet to the point of beginning.

Said tract contains 3.29 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

[¶7] The District has fulfilled the required negotiation steps in accordance with subsection 2 of section 61-16.1-09 of the North Dakota Century Code.

[¶8] The District sent a written offer of just compensation to Landowner by certified mail, along with an appraisal and purchase agreement, on April 22, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On May 18, 2020, the District sent Landowner a written request for a meeting, by certified mail; the District and Landowner have not reached an agreement regarding compensation, and more than fifteen days have passed since Landowner's receipt of the offer. A copy of the written request for a meeting with Landowner is attached as **Exhibit 2**.

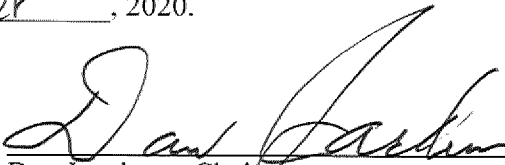
[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶11] On July 21, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way and Temporary Easement by certified mail. Additionally, on August 14, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way and Temporary Easement by UPS. A copy of the notice of intent is attached as **Exhibit 3**.

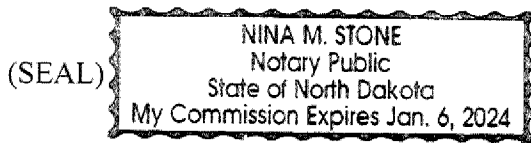
[¶12] The District has retained land agents who are in direct contact with Landowner. The District instructed our land agents not to reference, mention, or threaten quick take eminent domain during negotiations. The land agents have verified they have not referenced, mentioned, or threatened quick take eminent domain during the course of negotiations with Landowner since August 1, 2017.

[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 23rd day of October, 2020.

  
\_\_\_\_\_  
Dan Jacobson, Chair  
Cass County Joint Water Resource District

Subscribed to and sworn to before me this 23rd day of October, 2020.



  
\_\_\_\_\_  
Notary Public, Cass County, State of North Dakota